

STATE OF IOWA
DEPARTMENT OF COMMERCE
IOWA UTILITIES BOARD

IN RE:)
) Docket No. FCU-2016-0006
DAKOTA ACCESS, LLC)

**DAKOTA ACCESS' RESPONSE TO JUNE 27, 2016
COMPLAINT OF ERIN RILEY**

Dakota Access, LLC ("Dakota Access") hereby submits its Response to the June 27, 2016 Complaint of Erin Riley ("Riley") in the above-captioned matter.

RESPONSE

On June 27, 2016, Riley filed her "Complaint Filing" in the above-referenced docket.¹ Riley's Complaint states that Dakota Access sent Riley the Board-required 48 Hour Notice of Commencement of Construction regarding parcel number IA-WA-036.000, and alleges that Dakota Access would be in breach if it constructed on her parcel because not all payments had been made under the voluntary easement agreement applicable to that parcel at the time it sent her the notice.

As a threshold matter, Riley's complaint is moot because Dakota Access has issued all payments to all required parties as of today's date.² Moreover, nothing in the voluntary easement agreement between the parties requires Dakota Access to issue payment to Riley before it can access the property. Rather, pursuant to the easement agreement, the landowners

¹ Docket No. FCU-2016-0006 was opened by the Board's April 28, 2016 Order Denying Applications for Rehearing or Reconsideration, Opening Complaint Docket and Establishing General Complaint Procedures in Docket No. HLP-2014-0001, in which the Board chose to treat a Motion for Rehearing filed by Riley on March 31, 2016, and a "Statement of Position, Comments" filed by Riley on April 11, 2016 as a complaint. Dakota Access has previously filed a Response and Supplemental Response to Riley's original complaint in this docket.

² Payments have been made either by hand delivery or FedEx.

granted Dakota Access an immediate right to enter the property, with the understanding that payment would not be issued immediately.

Finally, it is worth noting that any delay in issuing payment to Riley resulted from a series of questions and requests from Riley to have the payment issued to other than herself. Riley signed the voluntary easement agreement on May 16, 2016.³ On that date, Riley informed Dakota Access that she would like her payment directed to a life estate, rather than to herself. Dakota Access indicated that it would look into the matter to see if that was possible. On May 19, Dakota Access contacted Riley and informed her that an affidavit terminating the life estate had been filed (terminating its existence), and Dakota Access therefore could not direct her payment to the life estate.

On May 26, 2016, Riley contacted Dakota Access and informed it that she would now like her payment (as well as a payment due to a Britt Schubbe) directed to Nancy Squire. Dakota Access responded on that date, informing her that it would need her to complete a W-9 and Directive of Payment form in order to do so. On June 10, 2016, Riley contacted Dakota Access and stated that she now believed the payments would again have to be made differently because of the closing of a related estate. On June 17, 2016, Dakota Access informed Riley that it was looking into the matter regarding the estate, and provided Riley with the Directive of Payment form for her to complete to have her payment issued to Nancy Squire instead of to herself. On June 24, 2016, Dakota Access informed Riley that the referenced estate had no impact on the payments to be made, and again asked Riley to complete the Directive of Payment form. Dakota Access has not received the completed Directive of Payment form back from Riley.

³ All other parties with an interest in parcel number IA-WA-036.000, including the now-deceased life estate holder who owned a ½ interest in the property, the other four remaindermen to that life estate (other than Riley), and the holder of the other ½ interest in the property, had already signed a voluntary easement agreement with Dakota Access in 2015. After Riley signed, those parties (except for the now-deceased life estate holder) were asked to sign a new easement that is identical to the one Riley signed.

Nonetheless, to resolve the issue, and because Riley has put her request to issue her payment to Nancy Squire in writing, Dakota Access has issued her payment to Nancy Squire in accordance with her request today.

In sum, Dakota Access is not in breach of any duty, because all payments have been issued as of today's date. Moreover, even if those payments hadn't been issued, there is no requirement in the easement agreement between the parties that Dakota Access issue all payments before it accesses the property. Finally, to the extent there has been any delay in issuing Riley her payment, that is the result of multiple attempts to address Riley's questions and accommodate her requests to issue her payment to someone other than herself. Accordingly, Riley's complaint should be dismissed.

WHEREFORE, Dakota Access, LLC respectfully requests that the Board enter an Order dismissing Riley's Complaint.

Respectfully submitted this 5th day of July, 2016.

By: /s/ Bret A. Dublinske

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ATTORNEYS FOR DAKOTA ACCESS, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 5th day of July, 2016, he had the foregoing document electronically filed with the Iowa Utilities Board using the EFS system which will send notification of such filing (electronically) to the appropriate persons.

/s/ Bret A. Dublinske

Bret A. Dublinske